

**MADISON COUNTY PLANNING BOARD  
MEETING MINUTES  
SEPTEMBER 24, 2007**

BOARD MEMBERS PRESENT: Lane Adamson, Pat Bradley, Dorothy Davis, Kathy Looney, John Lounsbury, Don Loyd, Dave Maddison, Eileen Pearce, Ed Ruppel, Laurie Schmidt and Ann Schwend.

BOARD MEMBERS ABSENT: NONE.

OTHERS PRESENT: Jim Barr Coleman, Kevin Germain, Ed Totten, Ann Sward, David Sward, Craig Sward, Ross Keogh, Jan Murphy, Chris Murphy, Ron Humphrey, Karen Brown, Carmen Smith, Jinny Stratton, Brad Stratton, Terry Shea, Daisy Fain, Larry Shore, Kevin Spencer, Michael Nicklin, Bob Brannon, Marvin Hansen, Tom Henesh, Steve Nelson, Wayne Lower and Planning Board Secretary Marilee Tucker.

MOTION: To approve the minutes with one correction. Moved by John Lounsbury, seconded by Lane Adamson. All voted aye.

**OLD BUSINESS:**

A. Charity Fechter's acceptance of Planning Director position. It was reported that Charity had accepted and will assume her duties as Planning Director on October 9, 2007. Planner II applications have been sent to her and the County Commissioners also have the copies to determine which candidates to interview for the position. Interviews will be set up during the first part of October.

B. Appointment of Don Loyd as the Big Sky Representative to the Planning Board. President Ann Schwend welcomed Don back to the board.

C. Moonlight Basin ODP and tour invitation

Kevin Germain was present to invite the board on a site tour of Moonlight Basin Ranch to view the aspects of the Overall Development Plan that has been submitted to the county and is being reviewed by contract planner Dave DeGrandpre. The site tour was set for October 18 with the group meeting with the Moonlight team at 9:00 a.m., Moonlight offices, Ennis. Moonlight will provide transportation for the site tour. Kevin explained that he was going to meet with Charity Fechter in New Mexico in order to show her the related materials and keep her in the loop of Moonlight's design intentions. He also announced that there would be two public meetings held by Moonlight, one in Big Sky and one in Ennis. They will be held on October 16 and 18 with no further details disclosed.

Marilee mentioned that Doris Fischer had suggested that the county come up with appropriate fees for reviewing ODP's (Overall Development Plans). The expense of Moonlight's review will be covered by Moonlight Basin Ranch. The Board asked Marilee to find out what Gallatin County charges for ODP's.

**NEW BUSINESS**

Review of Conservation Easements  
Granger Ranch III and Montag Property

Granger Ranch III, located south of Ennis, comprising approximately 1000 acres was favorably reviewed by the Board.

Montag Property located south of Ennis, comprising 659 acres, was favorably reviewed by the Board.

MOTION: To accept the Conservation Easements from the Montana Land Reliance for the Granger Ranch III and Montag properties with clarifications as acreage and one correction to the MLR letter of presentation on the Granger Ranch III easement. The correction was to reflect the "Madison County Comprehensive Plan", rather than "Madison Valley Comprehensive Plan. Moved by Ed Ruppel and seconded by Dorothy Davis. All voted aye.

#### Planning Board Member Reports Neighborhood meeting re: Bradley Creek Subdivision

Lane Adamson, John Lounsbury, Kathy Looney and Marilee Tucker attended the Neighborhood meeting in Norris on September 18. There were approximately 20 people at the meeting, some voicing concerns with the project and others spoke in favor. Comments were made concerning wildlife, water, dogs, cattle and taxes.

#### Water Summit follow-up Meeting

Lane Adamson reported that there would be a follow-up meeting to the Water Summit of last summer. It is scheduled for Thursday, September 27 at 6:30 in the foyer of Ennis High School.

Ann Schwend will be attending the Western Governor's Conference in Salt Lake City, Utah for a summit on *Water Policies and Planning in the West*. The emphasis of this meeting is to help guide water resources in the West.

#### PUBLIC HEARING AND REVIEW OF BRADLEY CREEK RANCH MAJOR SUBDIVISION, NORRIS (Bradley Creek Ranch, landowner)

Contract Planner Dave DeGrandpre opened with the description of the property in question and development plans associated with the project. He mentioned that this project and proposal contained an ODP, Preliminary Plat for Phases 1, 2 and 3 and a Request for a Road Variance. He described it as being a 2885 acre piece located south of Norris with a proposed total of 164 lots. Further description was given through his Staff Report and contained in the project application. DeGrandpre recommended approval of the preliminary plat.

#### **WRITTEN PUBLIC COMMENT:**

There were three public written comments received by the Board and developer:

- Gale Gough expressing concern over location of the project, size, wildlife disturbance, impact of entrance to the highway, disposition of the spring on the property which is used by wildlife and proximity to on-foot hunting. She also voiced concerns about the proposed type of architecture, use of propane tanks, two story houses "pock marking the landscape", and asked if there is a possibility of alternative energy sources.
- A letter from James Goetz of Goetz, Gallik & Baldwin P.C. opposing the subdivision on behalf of Defenders of Madison's Shared Values, and on his own behalf outlined the Norris Hill Road as Gateway to the Madison and the lack of need for Bradley Creek Subdivision. He pointed out that the development does not foster the purpose in the Subdivision and Platting Act which is designed to promote the public health, safety and general welfare, to prevent overcrowding of the land, and to require development in harmony with the natural environment, and to preserve open space". His letter urged the Planning Board to notice the words of the Madison County Comprehensive Plan which encourages "clustering" in developments and building them closer to existing towns. He mentioned adverse impacts to wildlife, particularly elk. He stressed that the Planning Board has the legal authority to deny the subdivision.

- Jim Barr Coleman of Goetz, Gallik & Baldwin also presented a letter of opposition to the subdivision. He cited that it would (1) violate Montana's Constitutional guarantee to a clean and healthful environment, (2) violates the Montana Code and Madison County's Subdivision Regulations, Comprehensive Plan and Growth Policy, (3) it proposes a substantial threat to wildlife and wildlife habitat, (4) violates overarching principles of Smart Growth found in the Subdivision Platting Act etc.

## PUBLIC COMMENT

- Jim Barr Coleman on behalf of Defenders of Madison's Shared Values (Defenders) reiterated the contents of his letter in opposition to the subdivision.

## COMMENTS/QUESTIONS FROM THE BOARD and PUBLIC

- The geologic map contained in the proposal is inadequate. Directly south of the project is a problem area. The map is impossible.
- Concerned with 20 foot road variance request. Concerned about dust from the road in general. Also am concerned about lighting and protection of the night skies. Need more time to consider these items as related to the subdivision.
- This (project) sounds like a mess. (Referred to the Growth Solutions Process). Quoted Laurie Schmidt, "People don't come here to see Growth...."
- What will be the debt load on this stream? Could result in my loss of grazing. Concerned with the tax impact on residential vs. agricultural. This will create an additional burden for ag. What is the county's position on transfer of development rights? Would prefer a moratorium on subdivision development until Growth Solutions and County Commissioners have decided on development rights transfer.
- Consider the cumulative impacts of this development and others such as Lower (Family Ranch). The same herd of elk occupies the two proposed subdivision areas. This could change the patterns of elk in the area. (*Bob Brannon, FWP*)
- What kinds of studies are available that show how this type of subdivision hurts the elk population? The difference between the elk in Gardiner (MT) and here is that those are not hunted.
- I'm not excited about habituated wildlife. Helena is experiencing the need to get rid of over 300 deer (within the city limits) which have become used to houses and people.
- How many elk are in that area? *As few as 50 and as many as 200. (Bob Brannon)*
- Fences will be needed around "ornamentals" (shrubs, flowers etc.)
- The Wildlife Conservation Society report was quoted as saying that the area from the Norris Hill to North Meadow Creek may provide stepping stones for movement of a variety of wildlife species.
- Concerned with avian migrations as well as large mammal migrations. (*Bob Brannon, FWP*)
- Elk numbers are increasing largely due to changed land uses. This is particularly true in this area as well as Pony. (*Bob Brannon*)
- Elk numbers are much greater than in 1912 when the Fain place was homesteaded.
- Is the number of elk an overload for the land right now? *Yes. (Bob Brannon)*
- Covenants should address how the garbage from the homes is to be stored. Use of bird feeders should be discouraged in the covenants too.
- MDOT does not plan to put in a left turn lane on the highway. The encroachment permits have been approved, but not signed off on by MDOT.
- How will you have productive hay ground without water rights?
- What happened to the surface water rights? *They were retained by the Tobacco Root Reserve and that is the Jackson Family.*
- Does the cattle driving corridor go farther than the Bausch children or end with them? *It ends with them.*

- Before there are enough land owners to have a Homeowners' Association, who will be the governing body within the subdivision? *Bradley Creek Development.*
- Proposed covenants will become final covenants at final plat stage.

MOTION: To recommend approval of the subdivision as per contract planner's staff report. Moved by Dave Maddison. No second. Motion dies.

#### ADDITIONAL COMMENTS/QUESTIONS

- Homeowners' Associations in the Madison Valley do not work.
- Problems arise when Homeowners' Associations change covenants down the line.
- Covenants are the only option in this county to put up a guideline. They are as strong as the people want them to be.
- Anything in the covenants can be amended by a vote of 75% of the landowners. County can change this stipulation by amending the conditions in the staff report.
- It could be added that amendments cannot be made (to the covenants) without county approval.
- The County Commissioners have repeatedly said that they would not intervene in the matter of covenants.
- Certain covenants can become conditions.
- What about affordable housing? I'm asking for a Task Force to protect the idea of affordable (work force) housing. I am offering a donation. *(Kevin Spencer, Bradley Creek Development).*
- County Commissioner Marilyn Ross is on the Task Force. You should discuss it with her.
- The previous Task Force had no way to take care of the money. I'm making the commitment; a \$200,000 gift. *(Kevin Spencer.)*
- There are models to implement this.
- From an emergency services standpoint, I am concerned with the request for road width change.
- The county used to have a 20' road width requirement and changed it to 24. I am not in favor of granting the variance (for road width change).
- Granting the road variance sets a precedent. Not a good thing to do.

MOTION: To deny the road width variance request. Moved by Dave Maddison, seconded by Kathy Looney. All voted aye. Motion carries.

#### ADDITIONAL COMMENTS AND QUESTIONS

- Where is the water and septic report? It wasn't included in the packet. *There were only 4 copies.*
- DEQ will designate the location of septic and wells.
- We need to separate votes out on ODP and Preliminary Plat.
- What study was done to indicate need for these 160 lots? We have 20,000 acres of subdivided lots in the Madison Valley that haven't been built on yet. Why do we need this?
- The need assessment was thrown out in the Subdivision Act of 1986. No study was done. Is there supply and demand? No way of knowing.

#### DEVELOPER'S RESPONSE

- Compliance is complete; wildlife study is complete; no cattle grazing means some grasses are coming back; "no hunting" means it could have to be used to manage wildlife increases. 85% of the property will be unfenced.
- We're not asking them to remove their driveway. We will work with them. *(Fain)*
- The geology document was not a study, but an assessment. There are irregularities in it.
- Madison County does not have transfer of development rights.
- We have not received the letters from Goetz and Coleman. *(Bradley Creek Development)*
- Would like more discussion about fencing re: wildlife.
- What area would be adequate for a winter range for the elk? *One quarter mile would be adequate. (Bob Brannon)*

- This is the epitome of rural sprawl which our Growth Policy says we should not approve. The Under Secretary of Agriculture says that this kind of development is the worst environmental disaster in the West.
- There has been no consideration for the integrity of the landscape.
- We have looked at justification by ex-biologists for a subdivision. There should be a compelling need for this. We need to live in a higher standard for justifying subdivisions.

Discussion was held concerning three of the conditions of approval and changes to be made to them. Changes suggested were:

(1) Condition #14- All roadways and driveways to lots 71, 121, 122 and 146 shall be built to Madison County standards, prior to filing the final plat.

(2) Condition #15- Prior to construction of the subdivision roadways in Phase 2 and 3, the subdivider shall obtain one or more 310 permits from the Madison Valley Conservation District for the applicable stream crossings and shall submit copies of the permits along with the final plat application for the appropriate phase.....

(3) Condition #26- Revise to incorporate the recommendations of Bob Brannon that weren't already there, to prohibit gates across public roads and to specifically list the recommendations as cited in Section II. M, Covenants, Conditions and Restrictions of the Staff Report by Dave DeGrandpre.

MOTION: To recommend approval of the Overall Development Plan. Moved by Dave Maddison, seconded by Don Loyd. Four voted aye, 6 voted nay and there was one abstention. Motion failed.

The hearing was closed at 10:30 p.m.

The meeting closed at 10:37 p.m.

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Ann Schwend, President

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Marilee Foreman Tucker, Secretary

Comments/Questions:

- It is difficult to have a strong Homeowner's Association. Madison County should have veto authority over building envelope changes. (DeGrandpre)
- Madison Valley Ambulance is concerned with their financial situation and volunteer pool to service this subdivision- (DeGrandpre)